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16 UNITED STATES DISTRICT COURT

17 FOR THE NORTHERN DISTRICT OF CALIFORNIA

18 SAN JOSE DIVISION

20 REGENTS OF THE UNIVERSITY OF
21 MINNESOTA,

22 Plaintiff,

23 v.

24 LSI CORPORATION AND
25 AVAGO TECHNOLOGIES U.S. INC.,

26 Defendants.

Civil Action No. 18-cv-00821-EJD-NMC

DEFENDANTS' NOTICE OF MOTION AND MOTION IN LIMINE REGARDING CARNEGIE MELLON LITIGATION

Date: March 6, 2025

Time: 2:00 p.m.

Place: Courtroom 4—5th Floor

Hon. Edward J. Davila

27 DEFENDANTS' NOTICE OF MOTION AND MOTION IN LIMINE REGARDING CARNEGIE
28 MELLON LITIGATION

CASE NO. 18-CV-00821-EJD-NMC

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NOTICE OF MOTION

TO ALL PARTIES HEREIN AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on March 6, 2025, at 2:00 p.m. or soon thereafter as counsel may be heard by the Honorable Judge Davila, in the United States District Court for the Northern District of California, located at 280 South 1st Street, San Jose, California, Defendants LSI Corporation and Avago Technologies U.S. Inc. (collectively, "LSI") will move and hereby do move *in limine* regarding the admissibility of evidence and arguments at trial related to *Carnegie Mellon University v. Marvell Tech. Grp., Ltd.*, Civil Action No. 2:09-cv-00290-NBF (W.D. Pa.).

1 **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION**

2 **I. INTRODUCTION AND STATEMENT OF THE ISSUE TO BE DECIDED**

3 Pursuant to Federal Rules of Evidence 402 and 403, Defendants LSI Corporation and
 4 Avago Technologies, Inc. (collectively, “Defendants”) respectfully request that the Court preclude
 5 Plaintiff Regents of the University of Minnesota (“UMN”) from introducing any evidence,
 6 testimony, argument, or otherwise referencing at trial the existence, facts, posture, legal and
 7 factual theories, arguments, or outcome of *Carnegie Mellon University v. Marvell Tech. Grp., Ltd.*
 8 *et al.*, Civil Action No. 2:09-cv-00290-NBF (W.D. Pa.) (hereinafter, “CMU”).

9 CMU is wholly irrelevant to any issue in this case. CMU was a patent infringement case
 10 between different parties (Carnegie Mellon University, Marvell Technology Group, and Marvell
 11 Semiconductor) involving different and unrelated patents. The asserted Carnegie Mellon patents
 12 claimed different alleged inventions and were asserted against different accused products. The
 13 only connection between CMU and the current case is that the same plaintiff’s counsel (K&L
 14 Gates) represented Carnegie Mellon and used the same experts.

15 The CMU case has no probative value to this case. And even if there was, it is far
 16 outweighed by the severe risk of undue prejudice, jury confusion, and wasted time resulting from
 17 discussion of an unrelated litigation in a different court between different parties involving
 18 different patents and different products. Put simply, UMN wants to put the CMU jury verdict in
 19 front of the jury because it is extremely large—over one billion dollars—to make UMN’s demand
 20 of nearly \$80M look more reasonable in comparison. The Court should not permit such a gambit.
 21 This case should be decided on the facts of this case without comparison to any other verdict,
 22 especially a verdict that was vacated by the Federal Circuit and can serve no purpose but to
 23 habituate the jury to the idea of an enormous verdict.

24 **The issues to be decided are:** Whether UMN should be precluded from mentioning and
 25 introducing any evidence, testimony, argument, or otherwise referencing at trial the facts, posture,
 26 legal and factual theories, arguments, or outcome of CMU.

1 **II. LEGAL STANDARD**

2 Evidence and testimony about unrelated litigation “is likely to give rise to time-consuming
 3 tangents about the merits of those trials.” *Grace v. Apple, Inc.*, No. 17-CV-00551-LHK, 2020 WL
 4 227404, at *3 (N.D. Cal. Jan. 15, 2020) (quoting *Marez v. Bassett*, CV 06-0118 ABC (RCx), 2011
 5 WL 13213813, at *3 (C.D. Cal. Oct. 3, 2011)). “Introducing evidence of verdicts or judgments in
 6 other cases will distract the jury from considering the relevant issues in the current case.” *Kakkis*
 7 *v. Provident Mut. Life Ins. Co. v. Philadelphia*, No. CV 00-08297 DDP (JWJx), 2002 WL
 8 34357203, at *2 (C.D. Cal. Oct. 7, 2002). “Courts routinely exclude evidence and argumentation
 9 relating to prior litigation because the risk of unfair prejudice substantially outweighs the
 10 probative value of any evidence.” *Int'l Bus. Machs. Corp. v. Zynga Inc.*, Civil Action No. 22-590-
 11 GBW, 2024 WL 3993290, at *2 (D. Del. Aug. 29, 2024).

12 **III. FACTUAL BACKGROUND**

13 **A. The CMU Litigation**

14 Carnegie Mellon University filed an infringement action against Marvell Technology
 15 Group, Ltd. and Marvell Semiconductor, Inc. (collectively “Marvell”), alleging that Marvell
 16 infringed two of Carnegie Mellon’s patents, U.S. Patent Nos. 6,201,839 and 6,438,180, on March
 17 6, 2009. Ex. 1 (*CMU* Dkt. 901, Opinion Denying JMOL), at 1. The Carnegie Mellon patents have
 18 no connection to UMN’s asserted U.S. Patent No. 5,895,601—no shared specification, no shared
 19 inventors, no shared ownership, and no shared licensing or litigation history. In *CMU*, Carnegie
 20 Mellon alleged infringement by Marvell’s MNP, EMNP-type and NLD type chips, none of which
 21 is implicated in the present case. Ex. 1 (*CMU* Dkt. 901, Opinion Denying JMOL), at 17. After
 22 trial, the CMU jury entered a verdict on December 26, 2012, in favor of CMU on infringement,
 23 validity, and willfulness, awarding damages in the amount of \$1,169,140,271.00. Ex. 1 (*CMU*
 24 Dkt. 901, Opinion Denying JMOL), at 1. On appeal, the Federal Circuit reversed the
 25 enhancement of damages due to willfulness and vacated the portions of the damages award and
 26 on-going royalty which applied to chips not made in, used in, or imported to the United States.
 27 *Carnegie Mellon Univ. v. Marvell Tech. Grp. Ltd. et al.*, 807 F.3d 1283, 1311 (Fed. Cir. 2015).

1 **B. UMN's Reliance on CMU**

2 In the present litigation, UMN's experts Ms. Lawton and Dr. McLaughlin rely on *CMU* for
 3 portions of their opinions. Specifically, UMN's technical expert, Dr. McLaughlin, provided the
 4 following conclusory opinion in his expert report:

5 I was also an expert witness in the matter of *Carnegie Mellon Univ. v. Marvell*
 6 *Tech. Group, Ltd.*, Case No, 09-290 (W.D. Pa.). The patents in the *CMU* case
 7 concerned digital processing techniques for the detector on the read-side portion
 8 of a read channel. As I've described in this report, the '601 Patent is directed to
 9 the write-side portion of the read channel. Based on my knowledge of the patents
 10 at issue in the *CMU* patents and my review of the '601 Patent in this case, it is my
 11 opinion that the patents in the *CMU* case and the '601 Patent are technically
 12 comparable, even though they *concern different aspects of the read channel*,
 13 because both the *CMU* Patents and the '601 Patent are directed to digital
 14 processing methods that can be used to address, in an HDD read channel, noise
 15 caused by transitions on the recording medium.

16 Dkt. 311-3 (McLaughlin Report), ¶ 5.32 (emphasis added).

17 And UMN's damages expert, Ms. Lawton, refers extensively to *CMU* information in her
 18 expert report, citing, *inter alia*, trial testimony, demonstrative exhibits, docket entries, selective
 19 quotes from the appellate decision, and deposition exhibits ostensibly to support the
 20 reasonableness of her opinion. *See, e.g.*, Dkt. 317-4 (Lawton Report), ¶¶ 195, 198, 201, 203, 227,
 21 268, 340, 408, 410, 414, 434, 436, 438, 445, 452, 454, 457, 460, 470, 475, 478-79, 481, 493, 496,
 22 499, 505-06, 514, 536, 538, 541, 546, 703-05, 716, 720, 723, 820, 873, 878, 882-84, 922-28, 943,
 23 960, 965. Indeed, Ms. Lawton references *CMU* no less than 95 times in her expert report,
 24 covering over 550 pages of opinion. For example, Ms. Lawton cites her own trial demonstratives
 25 from *CMU* for a statement by Marvell regarding SNR gain: "Marvell explained this in April 2004
 26 as follows...". Dkt. 317-4 (Lawton Report), ¶ 203 n. 449. She also refers not only to the report of
 27 Dr. Bajorek in this case, but to his trial testimony in *CMU*. Dkt. 317-4 (Lawton Report), ¶ 227 n.
 28 512. And most concerning, Ms. Lawton relies on the billion-dollar *CMU* verdict as a purported

1 “benchmark” to support her per-unit royalty opinions. Dkt. 317-4 (Lawton Report), ¶¶ 920-28.

2 **IV. THE COURT SHOULD EXCLUDE ALL REFERENCE TO CMU**

3 LSI only should be required to litigate this case against UMN; LSI should not be required
 4 to litigate against the ghost of a case in which it had zero involvement. Therefore, all mention,
 5 evidence, testimony, exhibits, transcripts, and results of *CMU* should be excluded from the
 6 upcoming trial as irrelevant under Rule 402, and further excluded as unduly prejudicial under Rule
 7 403, as any reference to *CMU* will only confuse and mislead the jury, as well as waste precious
 8 trial time.

9 **A. CMU Is Not Relevant to the Claims and Defenses in this Trial**

10 Because the *CMU* proceedings and outcome have no relevance to any issue in this trial, all
 11 mention of that case should be excluded under Rule 402. Specifically, the subject matter,
 12 documents, and proceedings in *CMU* do not make it “more or less probable” (Fed. R. Evid.
 13 401(a)) that Defendants have infringed claim 14 or claim 17 of the ’601 patent. *CMU* involved
 14 different parties, a different court, different patents, different fact witnesses, different products,
 15 different time periods, and admittedly different technology—“different aspects of the read
 16 channel” as acknowledged by UMN’s technical expert Dr. McLaughlin. Dkt. 311-3 (McLaughlin
 17 Report) ¶ 5.32. As such, nothing from *CMU* can be fairly said to make it more or less probable
 18 that UMN is entitled to monetary damages in the amount of a reasonable royalty of \$0.35 per unit,
 19 as Ms. Lawton contends. Courts routinely exclude reference to other cases where, like here, the
 20 two cases are so plainly unrelated. *See, e.g., Realtek Semiconductor Corp. v. LSI Corp.*, No. 12-
 21 cv-3451-RMW, 2014 WL 46997, at *7 (N.D. Cal. Jan. 6, 2014) (excluding other lawsuits because
 22 patents unrelated to the asserted patents are irrelevant); *Finjan, Inc. v. Sophos, Inc.*, No. 14-cv-
 23 01197-WHO, 2016 WL 4560071, at *15 (N.D. Cal. Aug. 22, 2016) (excluding evidence of prior
 24 litigation involving “unrelated parties, technologies, and non-patent claims”).

25 Further, *CMU* has no relevance to any of the *Georgia-Pacific* factors endorsed by the
 26 Federal Circuit for calculating patent damages. *See Georgia-Pacific Corp. v. U.S. Plywood Corp.*,
 27 318 F. Supp. 1116, 1120 (S.D.N.Y. 1970), *judgment modified*, 446 F.2d 295 (2d Cir. 1971). All of
 28 the *Georgia-Pacific* factors except factors 12 and 14 are specific to the patents or parties in this

1 litigation, none of which was involved in the *CMU* litigation. *CMU* also is not probative under
 2 factor 12, as a single, jury-determined royalty rate for different patents and “different aspects” of
 3 accused products is by definition insufficient to show a relevant *customary* rate for a given
 4 industry. *Acceleration Bay LLC v. Activision Blizzard, Inc.*, 324 F. Supp. 3d 470, 489 (D. Del.
 5 2018) (“No economist would consider a jury verdict as to a hypothetical negotiation about one
 6 patent as a reliable basis for determining what the results of an actual arm’s-length negotiation
 7 about a second patent would be.”) And with respect to factor 14, the mere fact that *CMU* is
 8 referenced in the opinions of UMN’s experts does not make it probative of anything in this case.

9 **B. Any Reference to *CMU* Will Unfairly Prejudice Defendants, Confuse and
 10 Mislead the Jury, and Waste Time**

11 The staggering amount of the *CMU* verdict alone—over \$1.1 billion—will have a severe
 12 prejudicial effect on the jury. “[M]ost courts forbid the mention of verdicts or damage amounts
 13 obtained in former or related cases.” *Engquist v. Or. Dep’t of Agric.*, 478 F.3d 985, 1009 (9th Cir.
 14 2007), *aff’d*, 553 U.S. 591 (2008). This is because a “jury is likely to give a prior verdict . . . more
 15 weight than it warrants. The admission of a prior verdict creates the possibility that the jury will
 16 defer to the earlier result and thus will, effectively, decide a case on evidence not before it.”
 17 *Grace*, 2020 WL 227404, at *2; *Marez*, 2011 WL 13213813, at *3 (“A juror in this case who
 18 hears that prior juries found for [the party] in similar cases would likely be unduly swayed by that
 19 fact and perhaps not decide this case on its own merits.”). The prejudice here is even more severe
 20 because, unlike the prior cases discussed in *Marez*, *CMU* is far removed from the facts of this
 21 case—again, a different court, different parties, different patents, different accused products,
 22 different accused technological aspects, different time periods, and so forth.

23 Courts in this District consistently exclude any evidence or argument of other litigation
 24 even where the same parties were involved due to the risk of undue prejudice. *See, e.g., Realtek*,
 25 2014 WL 46997, at *7 (“The court concludes that Realtek’s other lawsuits against LSI, which are
 26 based on LSI’s alleged infringement of Realtek’s patents and are not related to the patents-in-suit
 27 here, are irrelevant to the issues in the present case.”).

1 **C. Any Arguments by UMN for Admissibility of CMU Should Be Rejected.**

2 UMN likely will contend that *CMU* is relevant to the issue of reasonable royalty damages
 3 in this case. But any such assertions by UMN should be rejected for several reasons.

4 *First*, the patents at issue in *CMU* are unrelated to UMN’s single ’601 patent (with only
 5 two surviving claims), having different priority and issue dates and different claims. Even UMN’s
 6 technical expert, Dr. McLaughlin, acknowledges in his report that “they concern different aspects”
 7 of the accused products. Dkt. 311-3 (McLaughlin Report) ¶ 5.32. *Second*, the *CMU* evidentiary
 8 record was developed between two completely different parties with different claims and defenses
 9 than those asserted in the present case. Neither party here has had any opportunity *in this case* to
 10 test the underlying accuracy or reliability of any of the *CMU* evidence or testimony Ms. Lawton
 11 relies upon in her report. Courts in this District have recognized the prejudice inherent in such a
 12 situation. *See, e.g., Opticurrent, LLC v. Power Integrations, Inc.*, No. 17-cv-03597-WHO, 2018
 13 WL 6727826, at *10 (N.D. Cal. Dec. 21, 2018) (“...[T]here are significant issues under Rule 403
 14 concerning unfair prejudice to PI, jury confusion, and wasted time, resulting from Evans’s
 15 potential testimony on the *Fairchild* vacated jury verdict. Even if the book of wisdom would
 16 permit Evans to consider the verdict, it has little probative value and will almost certainly cause
 17 unfair prejudice to PI and lead to jury confusion. The parties will most likely have to engage in
 18 lengthy explanations of the *Fairchild* case, re-litigate those unrelated issues in this trial, and as a
 19 result confuse the jury about the facts and circumstances of this dispute.”)

20 *Third*, as explained above, *CMU* is irrelevant to any of the required *Georgia-Pacific*
 21 factors. In fact, Ms. Lawton does not even rely upon *CMU* in her *Georgia-Pacific* analysis.
 22 Instead, she only references *CMU* as a “potential benchmark for value in this case”—an obvious
 23 euphemism for a prejudicial comparison intended to bias the jury in favor of a large verdict. Dkt.
 24 317-4 (Lawton Report) ¶ 919. *Fourth*, although Ms. Lawton alleges that “the *CMU* jury verdict
 25 provides important valuation data,” she also admits that the “jury verdict in *CMU* post-dates the
 26 hypothetical negotiation in this case by about 2 years,” which means none of the parties *in this*
 27 *case* would have, or even could have, used *CMU* to inform any part of the hypothetical
 28 negotiation. Dkt. 317-4 (Lawton Report) ¶ 921; *see Sprint Commc’ns Co. L.P. v. Charter*

1 *Commc'ns, Inc. et al.*, C.A. No. 17-17334-RGA, 2021 WL 982732, at *9 (D. Del. Mar. 16, 2021)
 2 (“The prior settlement agreements and jury verdicts are not relevant when they occurred after the
 3 date of the hypothetical negotiation, as the hypothetical negotiation occurred not ‘on the heels’ of
 4 the settlement agreements and jury verdicts, but before them.”).

5 Finally, while Ms. Lawton—a non-lawyer—cites to caselaw in her report in an attempt to
 6 rationalize the prejudice inherent in using *CMU* as a so-called “benchmark,” none of those cases
 7 justify what she is trying to do here. For example, in *Princeton Digital Image Corp. v. Ubisoft*
 8 *Entm't SA et al.*, the court ultimately *excluded* the expert’s reliance on unrelated litigation,
 9 observing that “[s]ome courts have appeared to conclude that it is *per se* unreliable for a damages
 10 expert, when attempting to establish a reasonable royalty for infringement of the patent-in-suit, to
 11 rely on a jury verdict from a different case involving entirely unrelated parties and different
 12 patents.” Ex. 2, *Report and Recommendation*, Case 1:13-CV-00335-LPS-CJB (Dkt. 341) (D. Del.
 13 Dec. 11, 2018), slip. op. at 3 (citing cases). In *Sprint Commc'ns Co., L.P. v. Time Warner Cable,*
 14 *Inc.*, the jury verdict at issue involved another case *to which Sprint was a party*, and was admitted
 15 as evidence relevant to willfulness. 760 F. App’x 977, 980-81 (Fed. Cir. Mar. 18, 2019). In *2-Way*
 16 *Computing, Inc. v. Sprint Solutions, Inc.*, the court did “not reach the issue of whether the license
 17 agreements and jury verdicts were sufficiently comparable.” No. 2:11-CV-12 JCM (PAL), 2015
 18 WL 2365648, at *5 (D. Nev. May 18, 2015). And in *In re Innovatio IP Ventures, LLC Patent*
 19 *Litigation*, the court excluded evidence of the verdicts and licenses at issue and reasoned it “should
 20 consider only licenses that arise out of circumstances comparable to RAND licensing
 21 circumstances” because the asserted patents were deemed standard essential. MDL Docket No.
 22 2303, Case No. 11-C-9308, 2013 WL 5593609, at *33 (N.D. Ill. Oct. 3, 2013). There is no claim
 23 of standard-essentiality by UMN in this litigation.

24 **V. CONCLUSION**

25 The Court should grant the motion *in limine* and preclude UMN from introducing any
 26 evidence, testimony, argument, or otherwise referencing the *CMU* litigation.

1 DATED: February 13, 2025

Respectfully submitted,

2 By: /s/ Kevin M. Bell

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10 LSI Corporation and Avago Technologies U.S. Inc.

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1 CERTIFICATE OF SERVICE

2 I hereby certify that a true and correct copy of the above and foregoing document has
3 been served on all counsel of record via the Court's ECF system on February 13, 2025.

4 /s/ Kevin M. Bell

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